

matter to the United States Department of Justice, requesting the institution of a Federal grand jury to investigate further potential criminal tax violations. The United States Department of Justice approves the request and initiates a grand jury investigation. The grand jury indicts the taxpayer. During the taxpayer's trial, the taxpayer subpoenas an IRS special agent for testimony regarding the investigation. The records and information collected during the administrative stage of the investigation, including the taxpayer's tax returns from IRS files, are IRS records and information. A testimony authorization is required for the IRS special agent to testify regarding this information. However, no IRS testimony authorization is required regarding the information collected by the IRS special agent when the IRS special agent was acting under the direction and control of the United States Attorney's Office in the Federal grand jury investigation. That information is not IRS records or information within the meaning of § 301.9000-1(a). Disclosure of that information should be coordinated with the United States Attorney's Office.

Example 5. The United States Department of Justice attorney representing the IRS in a suit for refund requests testimony from an IRS revenue agent. This is an IRS matter. A testimony authorization would not be required for the IRS revenue agent to testify because the testimony was requested by the government attorney.

Example 6. In response to a request by the taxpayer's counsel to interview an IRS revenue agent who was involved in a case at the administrative level, the United States Department of Justice attorney representing the IRS in a suit for refund asks that the IRS revenue agent be made available to be interviewed. This is an IRS matter. A testimony authorization would be required for the IRS revenue agent to testify because the testimony was first requested by taxpayer's counsel.

Example 7. A state assistant attorney general, acting in accordance with a recommendation from his state's department of revenue, is prosecuting a taxpayer under a state criminal law proscribing the intentional failure to file a state income tax return. The assistant attorney general serves an IRS employee with a subpoena to testify concerning the taxpayer's Federal income tax return filing history. This is a non-IRS matter. This is also a state judicial proceeding pertaining to tax administration within the meaning of section 6103(h)(4) and (b)(4). As such, the requirements of section 6103(h)(4) apply. A testimony authorization would be required for the testimony demand in the subpoena.

Example 8. A former IRS revenue agent is requested to testify in a divorce proceeding. The request seeks testimony explaining the

meaning of entries appearing on one party's transcript of account, which is already in the possession of the parties. This is a non-IRS matter. No testimony authorization is required because the testimony requested from the former IRS employee involves general knowledge gained while the former IRS revenue agent was employed with the IRS.

Example 9. A Department of Justice attorney requests an IRS employee to testify in a refund suit involving Taxpayer A. The testimony may include tax convention information, as defined in section 6105, which was originally obtained by the IRS from a treaty partner in connection with a tax case against Taxpayer B. While no testimony authorization is necessary, because the testimony is being requested by government counsel in a tax matter, the IRS employee may not testify (or otherwise disclose IRS records or information) without coordinating with the U.S. Competent Authority, as disclosure of tax convention information is governed by section 6105. The disclosure must also meet the requirements in section 6103(h)(4).

Example 10. In a state court tort action, Defendant subpoenas IRS for Plaintiff's federal income tax returns for particular taxable years. This is a non-IRS matter. The Disclosure Officer instructs Defendant that the IRS has established procedures for obtaining copies of Federal income tax returns. Section 601.702(d)(1) of this chapter establishes the procedures for obtaining Federal tax returns by requiring written requests for copies of tax returns using IRS Form 4506, "Request for Copy of Tax Return." At Defendant's request, Plaintiff executes Form 4506, naming Defendant's counsel as designee, and the form is properly submitted to IRS. A testimony authorization would not be required to disclose Plaintiff's returns to Defendant's counsel.

[T.D. 9178, 70 FR 7397, Feb. 14, 2005]

§ 301.9000-7 Effective date.

These regulations are applicable on February 14, 2005.

[T.D. 9178, 70 FR 7397, Feb. 14, 2005]

§ 301.9001 Statutory provisions; Outer Continental Shelf Lands Act Amendments of 1978.

Section 302 of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629) provides as follows:

Sec. 302. (a) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund in an amount not to exceed \$200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to